

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA

v.

ROMULO AGUILAR AGUILAR,

Defendant.

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Criminal Action No. 23-88-MN

GOVERNMENT'S MOTION FOR DOWNWARD DEPARTURE
PURSUANT TO U.S.S.G. § 5K3.1

The United States of America, by and through its attorneys, David C. Weiss, United States Attorney for the District of Delaware, and Edmond Falgowski, Assistant United States Attorney, moves for a two-level downward departure below the otherwise applicable advisory United States Sentencing Guidelines pursuant to Section 5K3.1, based upon the defendant's eligibility for the District of Delaware's Illegal Reentry Fast-Track Program.

I. Procedural Background

On October 13, 2023, the United States charged the defendant, Romulo Aguilar Aguilar, by Criminal Complaint with one count of Unlawful Reentry into the United States after Removal, in violation of 8 U.S.C. § 1326(a). Today, the defendant waived indictment and pleaded guilty to a felony information. Through that plea, the defendant accepted responsibility and agreed to the underlying factual basis supporting the charge. The defendant has moved for immediate sentencing without opposition from the Government.

II. Eligibility for the District of Delaware's Illegal Reentry Fast-Track Program

The defendant waived preliminary and detention hearings and agreed to plead guilty within 30 days of being taken into custody for the instant offense. In the Memorandum of Plea Agreement, the defendant also agreed not to file any motions described in Fed. R. Crim. P. 12(b)(3) and waived a full pre-sentence investigation. He likewise waived the right to appeal, as well as any collateral challenges to his conviction under 28 U.S.C. § 2255, with some limited exceptions. Accordingly, the United States believes the defendant qualifies for a downward departure pursuant to U.S.S.G. Section 5K3.1.

III. No Disqualifiers are Present in the Instant Case

Upon review of the defendant's Alien File and his criminal and immigration history, the United States finds no disqualifying events or circumstances prohibiting the defendant's participation in the District of Delaware's Illegal Reentry Fast-Track Program. The defendant's repeated arrests for Driving Under the Influence are concerning, however. Therefore, instead of four levels, the government moves for a two-level departure in this case.

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IV. Conclusion

Based on the foregoing, the United States requests the Court grant its motion and depart two levels from the otherwise applicable total offense level. A proposed order is attached.

Respectfully submitted,

DAVID C. WEISS
United States Attorney



Edmond Falgowski
Assistant United States Attorney

Dated: 12/19/23

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Defendant.)	

ORDER

AND NOW, this ____ day of _____, 2023, upon consideration of the government's motion for a downward departure pursuant to Section 5K3.1 of the United States Sentencing Guidelines, the Court hereby ORDERS that:

- (1) the defendant is eligible for the District of Delaware's Illegal Reentry Fast-Track Program; and
- (2) the government's motion for a two-level downward departure from the otherwise applicable guideline range under United States Sentencing Guideline Section 5K3.1 is hereby **GRANTED**.

THE HONORABLE MARYELLEN NOREIKA
United States District Court